Debra Clemens
Associate Director
Federal Regulatory

SBC Telecommunications, Inc.
1401 I Street NW, Suite 1100
Washington, D.C. 20005
Phone (202) 326-8882
Fax (202) 408-4807

October 15, 2004

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RE: ***Notice of Ex Parte – In the Matter of the 1993, 1994, 1995 and 1996 Annual Access Filings regarding Add-Back and OPEB, CC Docket Nos. 93-193, 94-65 and 94-157***

Dear Ms. Dortch:

On October 14, 2004, the undersigned, David Cartwright, Dave Toti, and Pat Doherty met with Tamara Preiss and Andrew Mulitz of the Wireline Competition Bureau's Pricing Policy Division.

The purpose of the meeting was to discuss in more detail, the comments and reply comments filed by AT&T, April 8, 2003 and April 22, 2003, respectively, in the above referenced proceedings. During the meeting SBC utilized the information contained in the attached document as a basis for the discussion.

This notice is being filed pursuant to 1.1206 of the Commission's rules. Please feel free to call me if you have questions regarding this filing.

Sincerely,

/s/ Debra Clemens

cc: T. Preiss (via electronic mail)
A. Mulitz (via electronic mail)

SBC's Response to AT&T Comments on RAO 20

(AT&T's opening Comments filed April 8, 2003 and Reply Comments filed April 22, 2003, CC Docket Nos. 93-193, 94-65, 93-163 and 94-175)

Issue: AT&T alleged that SBC failed to adequately support their calculations of the rate base adjustment (AT&T's opening Comments, pages 31 – 32)

- SBC provided additional cost support in original comments dated 4/8/03.

Issue: AT&T alleged that SBC did not specify whether corresponding adjustments were made to remove prepaid OPEB costs recorded in account 1410 (AT&T's opening Comments page 33-34)

- Under FAS 106 accounting, an employer accounts for the OPEB liability on a net basis.
- Any assets set aside for the payment of future OPEB liabilities (i.e. prepayments) must be offset against the OPEB liability account when presenting the company's balance sheet. (See SFAS 106, paragraph 74 (C) (6))
- A company should only have an OPEB liability or a prepaid OPEB, but not both.
- 3rd paragraph of RAO 20: "Account 4310, Other long-term liabilities. This account shall be used to record the amounts accrued for postretirement benefits. Companies shall credit this account for the net periodic cost of postretirement benefits recorded in the expense account matrix for the current year and shall debit this account for any fund payments made during the current year. Net periodic cost includes service cost, interest cost, return on plan assets, amortization of prior service cost, gains and losses, and amortization of the transition obligation. *If fund payments would cause the postretirement benefits portion of Account 4310 to have a debit balance, then the debit balance applicable to postretirement benefits shall be reported in Account 1410, Other noncurrent assets.*
- Therefore, if a company filed an adjustment to rate base to remove the reduction for the amounts recorded in Account 4310, then that same company would not have any OPEB prepaid assets in Account 1410.
- Nevada Bell was the only SBC company to have OPEB in Account 1410. That has subsequently been corrected and Nevada no longer uses Account 1410 for OPEBs. Nevada's rate base adjustment in this proceeding used the net of Account 4310 and 1410. All the other SBC companies appropriately used only Account 4310, because Account 1410 did not contain any OPEB activity.

Issue: AT&T alleged that Ameritech's adjustments to remove Account 4310 were overstated and more than the amounts that were originally deducted under RAO 20 (AT&T's opening Comments pages 34-35 and Reply Comments page 14 and Attachment 1).

- In SBC's original comments filed April 8, 2003, SBC provided an example of activity in the liability account and how the average rate base impacts are accurately calculated. (see pages 10 – 12 of SBC Comments filed April 8, 2003).

AT&T Reply Comments, Attachment 1, Second paragraph

Rate of Growth of OPEB Liability Account Balance

- AT&T alleged that SBC's analysis contained "counter-intuitive" assumptions because it maintained a constant rate of growth in the account
- Account 4310 is a balance sheet account which means it contains the cumulative activity in the account, not just a single year's activity.
- Account 4310 balance is increased each year by the amount of SFAS 106 expense recognized and is reduced by the amount of actual retiree benefits paid by the company and any contributions to the benefit plan trust.
- *SFAS 106 expense levels have exceeded benefit payments and trust contributions each* year resulting in the growth of Account 4310.

"Relieving" OPEB Liability Account Balance

- AT&T stated that "a constant rate of growth in the account would imply that there is no mechanism for 'relieving' the account."
- The relief of Account 4310 occurs from the benefit payments and/or contributions to the trust fund.
- "Incremental" OPEB costs used in SBC's previous analysis (SBC's April 8, 2003 Comments) represent the net amount of the annual expense estimates less the benefit payments and contributions.

Affect of TBO on Account 4310 Balance

- AT&T erroneously stated that "amortization of the TBO, as required by the Commission, would ***reduce*** both the current year's and prior year's balances in Account 4310".
- Amortization of the TBO does not reduce the current and prior year's balances in Account 4310. *The TBO **increases** the current year balance* in Account 4310 *and has* no impact on the prior year's Account 4310 balance.
- Paragraph 46 of SFAS 106 states that the TBO amortization is part of the annual SFAS 106 expense accrual and thus, as explained above, results in an increase in the Account 4310 OPEB liability balance.

Account 4310 Activity

- AT&T alleged that SBC's analysis assumes that the additional rate base impact occurs at the beginning of each year.
- SBC's analysis assumes that the impacts occur ratably throughout the year because the OPEB expense accrual is recorded monthly and actual benefit payments are made monthly.
- AT&T misinterprets the data provided in SBC's analysis by erroneously referring to the $29.4M annual activity as an "average" balance. It is not an average at all, nor is it a balance – it is the annual activity in the account (i.e. the net of the annual OPEB expense recognized, less the estimated benefit payments and trust contributions).
- *Account 4310 liability is increased by that net activity (increase in the liability account* occurs when the accruals are greater than payments).
- Averaging does not come into place until the calculation of rate base. The FCC's rate of return and sharing calculations require that an "average" rate base be used.
- SBC Comments filed April 8, 2004, page 11, line 8, clearly shows that the 1993 OPEB liability used for the rate base adjustment was an average (the average of the OPEB liability balances at the end of 1992 and at the end of 1993).

- AT&T's implication that the activity would occur only at the end of the year and thus result in a lower average is incorrect and would violate accounting principles that require transactions to be recorded in the period that they actually occur.

AT&T's Reply Comments, Attachment 1, Third paragraph

Curtailment Costs

- SFAS 106 clearly requires companies to recognize curtailment costs when certain events occur.
- Paragraph 96 of SFAS 106 defines a plan curtailment as "an event that significantly reduces the expected years of future service of active plan participants or eliminates the accrual of defined benefits for some or all of the future service of a significant number of active plan participants. Curtailments include:
  a. Termination of employees' services earlier than expected, which may or may not involve closing a facility or discontinuing a segment of a business.
  b. Termination or suspension of a plan so that employees do not earn additional benefits for future service.
- Ameritech, like many BOCs experienced significant force reduction plans during the early 1990's, which trigger plan curtailments.
- Paragraph 97 of SFAS 106 requires that the unrecognized prior service costs (including any remaining unrecognized TBO) associated with the future years of service that are no longer expected to be rendered must be recognized as a loss and included in FAS 106 expense for the year.
- In effect, a curtailment accelerates the recognition of prior service costs and any remaining TBO that had not yet been amortized.
- The recognition of these curtailment costs has the same impact on the OPEB liability recorded in Account 4310 as does the normal SFAS 106 cost accruals. It increases the balance in Account 4310.
- Any payments that may have been related to the curtailment would have been included with all other benefit payments and thus already reflected in the Account 4310 activity for the year.
- Curtailment costs and force reductions were previously discussed in Ameritech's May 13, 1996 Opposition to the AT&T petition regarding the 1996 annual access tariffs. (page 5, footnote 11)

Issue: AT&T alleges in its opening Comments pages 35-36 and Reply Comments page 13:

- **"The LECs 1996 tariff filings totally ignore any offsetting effects of adding the Account 4310 OPEB related costs to their rate bases."**
- **The base factor portion (BFP) revenue requirement that is used to develop multi-line EUCL would have increased as a result of adding the 4310 costs to their rate bases. Further, a higher EUCL rate would have decreased the CCL recovery in the common line basket.**
- **If the LECs were permitted to recalculate rate base then they should also recalculate their historical SLC and CCL rates.**
- **AT&T Reply Comments likewise conclude that EUCL rates would have resulted in lower CCL rates.**

- Ameritech and SWBT did in fact calculate the 1996 tariff filing based upon a BFP as argued by AT&T. The BFP was determined utilizing the rate base after RAO 20 Rescission.

- At PacBell, the BFP was not revised since it was predicated on the forward looking assumption that the RAO 20 Rescission would not stand. The BFP must be forecasted forward to the 1996-1997 tariff year and the PacBell assumption did not include the Rescission. In fact, the RAO 20 reduction was mandated into the rules in 1997.

- If it is determined that the BFP must follow the rate base treatment in PacBell, there is no provision in the rules to recover a higher multi-line EUCL rate to offset a lower CCL rate from the 1996-1997 tariff year. A waiver of the commission's rules would be required to increase the multi-line EUCL rate and to permit the combined EUCL rates to exceed CMT recovery.